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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/682,685	10/05/2001	Tin-Su Pan	GEMS8081.099	8976

27061 7590 11/19/2004

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EXAMINER

SMITH, RUTH S

ART UNIT	PAPER NUMBER
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3737

DATE MAILED: 11/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.



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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 09/682,685
Filing Date: October 05, 2001
Appellant(s): PAN ET AL.

MAILED
NOV 19 2004
GROUP 3700

ZIOLKOWSKI PATENT SOLUTIONS GROUP, LLC (GEMS)
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed October 28, 2004.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

The rejection of claims 21-29 stand or fall together because appellant's brief does not include a statement that this grouping of claims does not stand or fall together and reasons in support thereof. See 37 CFR 1.192(c)(7).

(8) *Claims Appealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

No prior art is relied upon by the examiner in the rejection of the claims under appeal.

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 21-29 have been rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. A pulse sequence is considered to be a type of signal which does not encompass any of the statutory categories of invention. Appellant's attention is invited to MPEP 2106 which states "Claims that recite nothing but the physical characteristics of a form of energy, such as a frequency, voltage, or the strength of a magnetic field, define energy or magnetism, per se, and as such are nonstatutory natural phenomena. *O'Reilly v. Morse*, 56 U.S. (15 How.) 62, 112-14 (1853). Claims 21-29 are not directed to a practical application. The claims fail to positively set forth any means for producing the pulses or means for acquiring MR data after the pulses have been applied to a patient's body. Therefore, the claims merely set forth a series of pulses of electromagnetic radiation with the intended use that they be directed to a slab of slices in the patient's body.

(11) Response to Argument

It is respectfully submitted that appellant's example of comparing the present claimed invention, directed to a signal, to claims which are directed to assembling pieces of wood to form a chair is not convincing. A chair is clearly recognized as encompassing statutory subject matter whereas a pulse sequence which comprises forms of energy/ a signal is not well recognized as such. The claims fail to positively set forth any practical application of the pulse sequence such as in the form of a step to acquire data using the pulse or means to provide the pulse sequence and merely set forth the pulses alone. Furthermore, it is submitted that the claims fail to positively set

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forth any ordered application of the pulses to achieve a practical application as inferred by the Appellant.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,



Ruth S Smith
Primary Examiner
Art Unit 3737

RSS

November 17, 2004

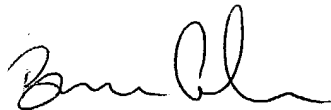
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